

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 11-2597

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Corey M. Turner,

Appellant,

v.

David Turner, Sheriff, Clark County  
Jail; Ray Wingfield, Chief, Clark  
County Jail; Rick Loy, Administrator,  
Clark County Jail,

Appellees.

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Appeal from the United States  
District Court for the  
Western District of Arkansas.

[UNPUBLISHED]

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Submitted: March 7, 2012

Filed: May 4, 2012

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Before MURPHY, ARNOLD, and SHEPHERD, Circuit Judges.

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PER CURIAM.

Corey Turner filed a 42 U.S.C. § 1983 action in 2009, and filed a second such action in 2010 raising new (but similar) claims against the same defendants. An April 2011 order directed that the filings for both cases were to be docketed solely in the 2009 case, with both case numbers on all documents. In June 2011, the district court<sup>1</sup>

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<sup>1</sup>The Honorable Robert T. Dawson, United States District Judge for the Western District of Arkansas, adopting the report and recommendations of the

dismissed the 2009 action without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to obey court orders. Mr. Turner appeals.

We conclude that the 2009 and 2010 cases were not truly consolidated, and that the 2010 action (though shown on its docket sheet as “terminated”) is still pending before the district court. See Tri-State Hotels, Inc. v. FDIC, 79 F.3d 707, 711-12 (8th Cir. 1996). We further conclude that the court did not abuse its discretion in dismissing the 2009 action without prejudice after warning Mr. Turner that failure to comply with court orders would result in dismissal. See Smith v. Gold Dust Casino, 526 F.3d 402, 404-05 (8th Cir. 2008); Schooley v. Kennedy, 712 F.2d 372, 374 (8th Cir. 1983) (per curiam). Accordingly, we affirm the judgment in the 2009 case and direct the district court to undertake such further proceedings in the 2010 case as may be required.

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Honorable James R. Marschewski, United States Magistrate Judge for the Western District of Arkansas.